

# Code of Student Conduct

## Authority for Student Discipline

1. Ultimate authority for student discipline is vested in the Board of Trustees by the University Charter. Disciplinary authority may be delegated to University administrators, faculty members, student committees, and organizations, as set forth in the "Code of Student Conduct" ("Code"), or in other appropriate policies, rules, or regulations adopted by the Board. Students are asked to assume positions of responsibility in the University judicial system so that they may contribute their skills and insights to the resolution of disciplinary cases.

## Rationale

2. The primary purpose for the maintenance of discipline in the University setting is to protect the campus community and to establish clear standards for civil interaction among community members. The University's goal, through maintenance of standards set forth in the "Code", is to help students experience democratic citizenship, and its attendant obligations and responsibilities.

The purpose of a disciplinary proceeding is to establish the factual record of an alleged violation of the "Code". The procedures outlined do not attempt to recreate or approximate a court of law. Procedures shall reflect standards of fundamental fairness, and minor deviations from procedural guidelines for hearings suggested in this "Code" shall not invalidate a decision or proceeding resulting from a conference or hearing unless significant prejudice to the accused or the University may result, as determined by the Dean of Student Affairs or designee.

## Definitions

3. When used in this "Code",

a. **"Distribution"** means any form of sale, exchange, or transfer.

b. **"Group"** means a number of persons who are associated with each other, but who have not complied with University requirements for registration as a student organization.

c. **"Institution"** and **"University"** mean the George Washington University and all of its undergraduate, graduate, and professional schools, divisions, and programs.

d. **"Organization"** means any number of persons who have complied with University requirements for registration with the Center for Student Engagement as a student organization.

e. **"Student"** means any currently enrolled person, full-time or part-time, or on continuous enrollment, pursuing undergraduate, graduate, or professional studies, whether or not in pursuit of a degree or of any form of certificate of completion.

f. **"University premises"** means buildings or grounds owned or leased by the University, or in which the University has an ownership interest, including, but not limited to, buildings or grounds in which students reside and University food service facilities are located; Marvin Center facilities; Columbia Plaza; and facilities operated in the name of any officially registered student organization. This definition is not limited to buildings or grounds owned or leased by the University at the Foggy Bottom Campus.

g. **"University-sponsored activities"** means events and activities initiated by a student, student organization, or University department, faculty member, or employee that

- (1) Are expressly authorized, aided, conducted or supervised by the University; or
- (2) Are funded in whole or in part by the University; or
- (3) Are initiated by an officially registered student organization and conducted or promoted in the name of that student organization and/or the University.

## Interpretation of Regulations

4. The purpose of publishing disciplinary regulations is to inform students of prohibited behavior. This "Code" is not written with the specificity of a criminal statute, and any similarity to the language of any criminal statute does not mean that such language or statute or case(s) applies to the University's disciplinary system or is relevant to the interpretation or application of the "Code".

## Inherent Authority

5. The University reserves the right to take necessary and appropriate action to protect the safety and well being of the campus community. Such action may include taking disciplinary action against those students whose behavior off University premises constitutes a violation of this "Code".

6. Students may be accountable both to civil authorities and to the University for acts that constitute violations of law and of this "Code". Disciplinary action at the University will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced or that no criminal charges have been brought.

## Interim Suspension

7. The Dean of Student Affairs or designee, following consultation with the Provost and Executive Vice President for Academic Affairs and the General Counsel or their designees, may evict a student from University housing or suspend a student from the University for an interim period not to exceed 21 days, pending disciplinary proceedings or medical evaluation. The interim eviction/suspension shall become immediately effective without prior notice whenever there is evidence that the continued presence of the student on the campus poses a substantial and immediate threat to himself or herself or to others or to the stability and continuance of normal University functions. Interim suspension shall be considered an excused absence.

8. A student suspended or evicted on an interim basis will be granted a disciplinary hearing or conference as soon as is practical.

## Standards of Classroom Behavior

9. The primary responsibility for managing the classroom environment rests with the faculty. Students who engage in any prohibited or unlawful acts that result in disruption of a class may be directed by the instructor to leave the class for the remainder of the class period. Longer suspensions from a class or dismissal on disciplinary grounds must be preceded by a disciplinary conference or hearing, as set forth in Articles 25 and 26 of this "Code", or in accordance with Articles 7 and 8 above.

The term “prohibited...acts” includes behavior prohibited by the instructor (including, but not limited to, smoking in the classroom, persistently speaking without being recognized or called on, refusing to be seated, disrupting the class by leaving and entering the room without authorization). It must be emphasized that this provision is not designed to be used as a means to punish classroom dissent. The expression of disagreement with the instructor or classmates is not in itself disruptive behavior.

### Office of Student Rights & Responsibilities

**10.** The Office of Student Rights & Responsibilities within the Division of Student Affairs directs the efforts of students and staff members in matters involving student discipline and supports the University’s mission of guiding students to become more responsible citizens. The responsibilities of the Office include:

- a. Determining the disciplinary charges to be filed according to this “Code”;
- b. Interviewing parties and witnesses involved in disciplinary proceedings and providing information to them regarding the disciplinary process;
- c. Training and advising the campus judiciary;
- d. Maintaining all student non-academic disciplinary records;
- e. Developing procedures for conflict resolution;
- f. Conducting disciplinary hearings and conferences;
- g. Collecting and disseminating research and analysis concerning student conduct;
- h. Resolving cases of student misconduct, including the imposition of sanctions lesser than suspension or expulsion.

### Prohibited Conduct

**11. Violence of any kind will not be tolerated on or off University premises or at University-sponsored activities.** Any student, group, or organization found to have committed misconduct is subject to disciplinary action and to the sanctions outlined in this “Code”. Attempts to commit any of these acts of misconduct are included in the scope of these definitions. The following are examples of misconduct subject to disciplinary action (subject to the provisions of Article 5):

- a. Sexual Violence - Inflicting any sexual violence, including any physical sexual abuse, assault, battery, invasion or penetration (including but not limited to sexual intercourse) upon any person against that person’s will, or without that person’s consent, or when that person is incapable of giving consent due to his or her age, medical or physical condition, intellectual or other disability, or use of alcohol or other drugs. “Consent” requires words or actions indicating a freely given agreement to have sexual intercourse or engage in other sexual activities. The lack of verbal or physical resistance does not by itself constitute consent. The degree of impairment of a person’s ability to give or withhold consent (including but not limited to incapacity or helplessness caused by alcohol or other drugs) may be introduced as pertinent information at any university disciplinary hearing.

- b. Sexual Misconduct - Making any unwelcome sexual advances or requests for sexual favors to another person, or engaging in any activities or conduct of a sexual nature with respect to another person that is offensive, degrading or pervasive, or that creates an intimidating or hostile academic, work, living or social environment for that person.
- c. Assault – Placing a person in fear of imminent physical danger or injury through the use of electronic, written, verbal, or physical means.
- d. Physical Abuse – Committing physical abuse and/or battery of any person.
- e. Drug / Alcohol Violation - Possession or use of alcohol by persons under 21; intoxication on University premises or public property; possession or use of illegal drugs or controlled substances; possession of paraphernalia containing drug residue; manufacture or distribution of illegal drugs or controlled substances.
- f. Weapon Violation - Use, possession, or storage of any firearms, ammunition, knives, other weapons, or objects that could be construed as weapons. Items that pose a potential hazard to the safety or health of others are also prohibited.
- g. False Alarm/Report – Knowingly or negligently causing or attempting to cause a fire in a University building; initiating or causing to be initiated any false alarm/report, warning, or threat of fire, explosion, or other emergency.
- h. Interfering With University Events - Interfering with any normal University or University-sponsored events, including but not limited to studying, teaching, research, and University administration, fire, police, or emergency services.
- i. Sanction Violation - Violating the terms of any disciplinary sanction imposed in accordance with this “Code”.
- j. Dishonesty - Non-academic dishonesty including but not limited to,
  - (1) Furnishing false information to the University or University personnel, including the University Police.
  - (2) Furnishing false information at University disciplinary proceedings.
  - (3) Forgery, unauthorized alteration, or unauthorized use of any University documents, records, or identification cards, including computer records, misuse of computer facilities, and electronic mailing systems. Academic dishonesty violations will be handled according to the Code of Academic Integrity.
- k. Misuse of Fire Safety Equipment - Misuse or damage to fire safety equipment, such as fire extinguishers or exit signs.
- l. Theft - Theft of property or of services or knowing possession of stolen property.
- m. Destruction of Property - Destroying or damaging University property, such as library holdings, or the property of others.

- n. Non-compliance - Failure to comply with reasonable directions of University officials, including University Police officers and representatives of the Division of Student Affairs acting in performance of their duties. Directives to cooperate in the administration of this “Code” including those to appear and give testimony at a University disciplinary proceeding as well as directives to produce identification are included in the scope of this provision.
- o. Regulation Violation - Any violation of other published University regulations including but not limited to The Alcoholic Beverage Consumption and Distribution Policy, regulations governing student organizations, the Residential Community Conduct Guidelines (whether the student lives in residence or not) and other lease agreements with the University, the Code of Computer Usage, and the Gelman Library Rules and Regulations.
- p. Fireworks Violation - Use or possession of fireworks.
- q. Violation of Law - Violation of federal and/or local law, including, but not limited to, possession of any false, fraudulent, or otherwise illegal identification card or document; manufacture, sale, or distribution of local, state, or federal identification.
- r. Unauthorized Use of the University’s Name - Any unauthorized commercial use of the University’s name, logo, or other representation.
- s. Disorderly Conduct – Shouting or making excessive noise either inside or outside a building; verbally abusing University officials acting in performance of their duties; acting in a manner that annoys, disturbs, threatens or harasses others; disrupting obstructing or interfering with the activities of others; or behaving in a lewd or indecent manner.
- t. Hazing - Any act of hazing. Hazing is defined as any action taken or situation created, intentionally, with or without consent, whether on or off campus, to produce mental or physical discomfort, embarrassment, harassment, or ridicule. Such activities and situations include but are not limited to paddling in any form; creation of excessive fatigue; physical and psychological shocks; quests, treasure hunts, scavenger hunts, road trips, or any other such activities carried on outside the confines of the house or organization; wearing, publicly, apparel that is conspicuous and not normally in good taste; engaging in public stunts and buffoonery; morally degrading or humiliating games and activities; and any other activities which are not consistent with the academic mission of the University. Groups and organizations will be held responsible for the actions of their members including pledges, associates, and any other pre-initiates.  
  
Persons will be charged, in addition to the group or organization itself, under this, as well as any other applicable violations. See Articles 28 and 29 for further information on this prohibition.
- u. Discrimination - Committing any of the above acts because of a person’s race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, or gender identify or expression.

- v. Trespass. Entering or remaining on or in any part of any University premises without proper authorization.

## Sanctions

Articles 12 and 13 represent an attempt to give needed assistance to those who are assessing sanctions. The guidance is directed toward imposing more severe disciplinary sanctions in serious cases. However, the language concerning “mitigating factors” is broad enough to give considerable discretion to do justice, depending upon the facts in each case. The burden of establishing mitigating factors prior to imposition of sanctions is on the student accused.

**12.** This “Code” seeks to preserve flexibility in the imposition of sanctions so that each student, group, or organization offender is afforded the greatest possibility for appropriate and just treatment.

Significant mitigating or aggravating factors shall be considered, which may include the current demeanor and the presence or lack of a disciplinary or criminal record of the offender, as well as the nature of the offense and the extent of any damage, injury, or harm resulting from it.

- a. Censure - An official written reprimand for violation of specified regulations, including a warning that continuation or repetition of prohibited conduct will be cause for additional disciplinary action.
- b. Disciplinary Probation - Exclusion from participation in privileged or extracurricular institutional activities for a specified period of time, including athletic and any other team activity or sport. Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation, or any other violation of this “Code” during the period of probation, will normally result in suspension or expulsion from the University.
- c. Restitution - Repayment to the University or to an affected party for damages, loss, or injury resulting from a violation of this “Code”.
- d. Eviction from Residence - Termination of residence contract and exclusion from visiting within certain or all residential facilities as set forth. Any student who is evicted shall not be entitled to a refund of room fees. Evicted students may not reside in other University-owned/controlled housing unless a waiver is granted by the Office of Student Rights & Responsibilities.
- e. Suspension - Exclusion from classes and other privileges or activities, including access to University premises or University-sponsored activities off campus, as set forth in the notice of suspension, for a specified period of time. Any student who is suspended shall not be entitled to any tuition or fee refund and is barred from University premises.
- f. Expulsion - Termination of student status and exclusion from University privileges and activities, including access to University premises or University-sponsored activities off campus, in perpetuity. Any student who is expelled shall not be entitled to any tuition or fee refund and is barred from University premises.
- g. Other sanctions - Other sanctions may be imposed instead of, or in addition, to those specified above. For example, students may be subject to restrictions upon or denials of University parking privileges for violations involving the

use or registration of motor vehicles on campus. Service projects may also be assigned. Students may be directed to have “no contact” with other students and/or may be forbidden to access specified areas of campus (“persona non grata”).

**13.** The following are recommended **minimum** sanctions:

- a. Sexual Violence: One year suspension and eviction from the residence halls or University-owned or controlled rental properties.
- b. Sexual Misconduct: Disciplinary probation.
- c. Assault: Disciplinary probation.
- d. Physical Abuse: One semester suspension and eviction from the residence halls or University-owned or controlled rental properties.
- e. Drug/Alcohol Violation:
  - i. Drug Violation:
    - (1) Possession and/or use:  
  
1st offense: \$50 fine, required participation in a drug abuse education program, disciplinary probation, and eviction from residence halls;  
  
2nd offense: \$100 fine and required evaluation by a certified service at the student’s expense;  
  
3rd offense: Conference with the Dean of Student Affairs or designee to determine the viability of the student’s remaining at the University.
    - (2) Manufacture, distribution, possession with intent to distribute illegal drugs or controlled substances:  
  
One year suspension.
  - ii. Alcohol Violation:
    - (1) Possession and/or use:  
  
1st offense: \$50 fine, censure, and required participation in an alcohol education program;  
  
2nd offense: \$100 fine, disciplinary probation, and required assessment by a certified service at the student’s expense;  
  
3rd offense: Conference with the Dean of Student Affairs or designee to determine the viability of the student’s remaining at the University.
- f. Possession or Storage of a Weapon or Object That Could Be Construed as a Weapon: Disciplinary probation and eviction from the residence halls or University-owned or controlled rental properties.
  - (1) Use of weapons, ammunition or objects that could be construed as weapons: One semester suspension.
  - (2) Use of firearms: One year suspension.

- g. False Alarm/Report: Suspension from the University and/or eviction from the residence halls or University-owned or controlled rental properties.
- h. Interfering with University Events: Censure.
- i. Sanction Violation: Disciplinary probation.
- j. Dishonesty: Disciplinary probation.
- k. Misuse of Fire/Safety Equipment: Restitution.
- l. Theft: Restitution.
- m. Destruction of Property: Restitution for the cost of replacement or repairs; loss of privileges in libraries or computer or other laboratories.
- n. Non-compliance: Disciplinary probation.
- o. Regulation Violations: Disciplinary probation, eviction from the residence halls or University-owned or controlled rental properties; denial of computer privileges/access; loss of library privileges. In egregious cases, such as tampering with University computer records, the student may be suspended for no less than one semester.
- p. Fireworks Violation: Eviction from the residence halls or University-owned or controlled rental properties; restitution for the cost of repairs.
- q. Violation of Law: Disciplinary probation for acts including but not limited to possession of any falsified means of identification; one semester suspension or, in egregious cases, expulsion for acts including, but not limited to, manufacture, sale, or distribution of local, state, or federal means of identification.
- r. Unauthorized Use of the University’s Name: Disciplinary probation.
- s. Disorderly Conduct: Disciplinary probation and/or eviction from the residence halls or University-owned or controlled rental properties.
- t. Hazing: For groups or organizations, loss of University registration and all attendant privileges; for individuals, disciplinary probation or any other sanction applicable for additional charges.
- u. Discrimination: Will not have a separate, minimum sanction since it only will be charged in conjunction with charges or other prohibited conduct as an aggravating circumstance to be considered in imposing sanctions for another violation.
- v. Trespass: Disciplinary probation.

**14.** Repeated or aggravated violations of any part of this “Code” may also result in expulsion or suspension or any other sanction that may be appropriate.

**15.** Attempts to commit acts prohibited by this “Code” or encouraging others to commit acts prohibited by this “Code” shall be punished to the same extent as completed violations.

## Case Referrals

16. Any person may refer students or student groups or organizations suspected of violating any part of this “Code” to the Office of Student Rights & Responsibilities and the University Police Department. Any person who witnesses a violation in progress should report it immediately to the University Police Department.

17. The Director of the Office of Student Rights & Responsibilities or designee will review the allegations to determine whether a sanction of suspension, eviction from housing, or expulsion could potentially result. If so, a hearing before a University Hearing Board will be scheduled pursuant to Article 26 of this “Code.” If not, a Disciplinary Conference will be scheduled pursuant to Article 25, or an ad hoc board will be convened.

18. Any student entitled to a hearing before a University Hearing Board may elect to have a Disciplinary Conference instead. If a student entitled to a hearing before a University Hearing Board elects a Disciplinary Conference, the full range of sanctions may be imposed, including, eviction, suspension, and expulsion.

19. The Director of the Office of Student Rights & Responsibilities or designee may defer disciplinary proceedings (University Hearing Board or Disciplinary Conference) for alleged violations of this “Code” for a period not to exceed two semesters. The Director of the Office of Student Rights & Responsibilities or designee may impose conditions or take interim measures as appropriate in connection with the decision to defer any such proceedings. Pending charges may be withdrawn at the conclusion of a deferral period, within the discretion of the Director of the Office of Student Rights & Responsibilities or designee and depending on the conduct of the accused student, or may be added to any subsequent charges arising from conduct within the deferral period.

## Judicial Boards

### 20. Judicial Bodies:

- a. The University Hearing Board hears cases to be resolved in accordance with this “Code”. The Board is composed of five full-time students to be selected from the pool. The pool shall consist of at least 10 full-time students selected according to Article 22 of this “Code”. If the alleged misconduct may result in suspension or expulsion from the University, whenever possible, a faculty member or administrator will be included; however, the absence of a faculty member or administrator will not prevent the University Hearing Board from hearing a case. Quorum will consist of at least three students.
- b. The Student Parking Violations Board considers appeals of offenses for which a ticket was issued by Parking Services, as well as other parking matters referred by the Office of Parking Services. It may both impose and reduce prescribed fines or suspensions of parking privileges. The Board is composed of three full-time students. Board decisions are subject to administrative review at the discretion of the Director of the Office of Student Rights & Responsibilities or designee, but are otherwise considered final and conclusive. Requests for appeal of parking tickets must be submitted in writing to the Office of Parking Services within thirty business days from the date the ticket was issued. Failure to appeal within this allotted time will render the original decision final and conclusive.

- c. Ad hoc Boards may be appointed by the Director of the Office of Student Rights & Responsibilities or designee if after reasonable effort a board cannot be constituted, obtain a quorum, or hear a case for other reasons. Ad hoc Boards may be composed of administrators, faculty members, students, or any combination thereof. Reasonable efforts should be made to arrange for student membership on any ad hoc Board.
- d. The Committee on the Judicial System, appointed by the President for a term of two years, will be composed of the following members: two faculty members to be nominated by the Faculty Senate; two administrators to be nominated by the Dean of Student Affairs; and two full-time undergraduate students and one graduate student to be nominated by the President of the Student Association. Quorum will consist of three members with each constituency - administrators, faculty, and students - represented. The chair should be a member of the Faculty Senate. In addition to reviewing appeals, other tasks or assignments may be referred to the Committee at the discretion of the Dean of Student Affairs. The Committee on the Judicial System’s decisions on appeals are final and conclusive.

21. With the exception of the Student Parking Violations Board, the finding of fact as determined by each University Hearing Board or Disciplinary Conference will be forwarded to the Director of the Office of Student Rights & Responsibilities or designee for determination and imposition of sanction, if applicable. In case of suspension or expulsion, the Dean of Student Affairs or designee, in concurrence with the Provost and Executive Vice President for Academic Affairs or designee, will impose sanctions.

## Selection and Removal of Judicial Board Members

22. Student members of each Judicial Board and the presiding officer are selected in accordance with procedures developed by the Director of the Office of Student Rights & Responsibilities or designee. Student members of each Judicial Board are appointed by the Dean of Student Affairs or designee to serve for a term of one year. Faculty and administrative members of each Judicial Board are nominated by the Faculty Senate and the Dean of Student Affairs, respectively, and are appointed by the President for terms established by the Faculty Senate.

23. Members of any Judicial Board who are charged with any violation of this “Code” or with a criminal offense will be suspended from their judicial positions by the Director of the Office of Student Rights & Responsibilities or designee during the pendency of the charges against them. Members found in-violation of any such violation or guilty of a criminal offense will be disqualified from any further participation in the University judicial system. Additional grounds and procedures for removal may be established by the Director of the Office of Student Rights & Responsibilities or designee.

24. Students, faculty and staff appointed as members of any Judicial Board must adhere to absolute confidentiality relative to the matters and names of all persons who participate in the judicial process. Any student who violates this provision will be charged and, if found in violation, will be sanctioned.

## Procedural Guidelines - Disciplinary Conferences

25. A Disciplinary Conference will normally consist of an informal, non-adversarial meeting between the accused party and a University administrator or an experienced member of the University Hearing

Board as designated by the Director of the Office of Student Rights & Responsibilities or designee. Accused students who fail to appear after written notice will be deemed not to have contested the allegations against them; however, a student may elect not to speak on his or her own behalf.

The following procedural guidelines are applicable to parties in Disciplinary Conferences:

- a. Written notice of the specific charges pertaining to the party, and date of the scheduled conference, will be provided at least three days prior to the conference.
- b. Reasonable access to the case file will be provided at least three days prior to and during the conference. Case files contain student educational records so access will be provided consistent with the Family Educational Rights and Privacy Act of 1974 ("FERPA"). The personal notes of university staff members will not be included in the case file. The case file will be retained in the Office of Student Rights & Responsibilities.
- c. **The opportunity to respond to the evidence and to call appropriate and relevant student witnesses.** Parties may also request the Office of Student Rights & Responsibilities to call additional witnesses provided such witnesses are reasonably available and would provide information relevant to the charge(s). It is expected that all witnesses will provide information that is true and correct. Any student who knowingly provides false information during a disciplinary conference will be charged under Article 11, section j of this "Code".
- d. The right to an advisor in accordance with the guidelines in Article 27.
- e. If a student entitled to a hearing before a University Hearing Board elects a Disciplinary Conference, the full range of sanctions may be imposed, including eviction, suspension, and expulsion.
- f. Notarized affidavits may be accepted or other accommodations made at the discretion of the presiding officer in lieu of live testimony at the conference stage if a witness is determined to be unavailable.

#### Procedural Guidelines – University Hearing Boards

**26.** The following procedural guidelines shall be applicable in all hearings before University Hearing Boards:

- a. Parties will be given written notice of the hearing date and the specific charges pertaining to them within a reasonable amount of time and be given reasonable access to the case file as appropriate and consistent with FERPA. The case file will be retained in the Office of Student Rights & Responsibilities.
- b. Parties may introduce relevant information and call appropriate and **relevant student** witnesses to testify at the hearing. Parties may also **request** the Office of Student Rights & Responsibilities to call **additional** witnesses, provided such witnesses are reasonably available and **would provide information relevant to the charge(s).** Failure to appear when called may result in charges under this "Code" but will not invalidate the proceedings. **Character witnesses will not be heard.** It is expected that all witnesses will provide information that is true and

correct. Any student who knowingly provides false information during a disciplinary hearing will be charged under Article 11, section j of this "Code".

- c. **Accused parties who fail to appear after written notice will be deemed not to have contested the allegations against them;** however, an accused party may elect not to speak on his or her own behalf. In such cases, the University Hearing Board's decision will be based solely on witness testimony and other information presented during the proceeding.
- d. Hearings will be closed to the public.
- e. The presiding officer will exercise control over the proceedings to maintain proper decorum, avoid needless consumption of time, and achieve an orderly completion of the hearing. Anyone disrupting the hearing may be removed or excluded from the hearing by the presiding officer, the Director of the Office of Student Rights & Responsibilities, or designee. Such disruption is a violation of this "Code", and a person may be charged following his or her disruption and removal.
- f. **Hearings will be recorded or transcribed.** The method used is at the discretion of the Director of the Office of Student Rights & Responsibilities or designee.
- g. Any party may challenge a Board member on the grounds of personal bias before the hearing commences. The decision to disqualify a Board member will be made by the Director of the Office of Student Rights & Responsibilities or designee. This decision is final.
- h. Witnesses will be truthful in giving testimony before the Board. Furnishing false information in such a context is a violation of this "Code" and appropriate sanctions will be applied.
- i. Only the immediate parties (and the parties' advisors if applicable) to the alleged violation may be present throughout the hearing. All parties will be excluded during Board deliberations.
- j. **The Board will question all parties and witnesses in an effort to establish the factual record.** On disputed points, a preponderance of the evidence introduced at the hearing will decide the facts. A "preponderance of the evidence" means that it is "more likely than not" that a fact is true or an event occurred.
- k. Formal rules of evidence will not be applicable in disciplinary proceedings described in this "Code".
- l. **All parties may question witnesses who testify for any of the parties at the hearing,** although in certain cases the University may require that such questioning be conducted indirectly and/or from a separate location.
- m. Prior to the hearing, the Director of the Office of Student Rights & Responsibilities or designee may appoint a special presiding officer in complex cases.
- n. Reports of the Board shall include findings of fact and a determination of whether or not the respondent is in violation of the alleged misconduct (the "outcome"). If the Board finds the respondent to be in violation, the report will also include a recommendation of sanction. The Board

may consider mitigating or aggravating circumstances when making a sanction recommendation. The report will be forwarded to the Director of the Office of Student Rights & Responsibilities or designee for review. The Director of the Office of Student Rights & Responsibilities or designee shall either adopt the sanction recommended by the Board or impose another or no sanction within his or her discretion.

- o. In cases of suspension or expulsion, the Dean of Student Affairs or designee, in concurrence with the Provost and Executive Vice President for Academic Affairs or designee, will make the final decision regarding sanctions. The past disciplinary record of the respondent and applicable mitigating and aggravating circumstances will be taken into account in determining the sanction(s).
- p. The outcome of the conference or hearing and the sanction (if appropriate) shall be rendered, in writing, within a reasonable amount of time after the hearing is concluded.
- q. Notarized affidavits may be accepted or other accommodations made at the discretion of the presiding officer in lieu of live testimony at the hearing stage if a witness is determined to be unavailable.

### Representatives and Advisors

27. Legal representation is not permitted in University Disciplinary Conferences or University Hearing Board hearings, although parties may be accompanied by advisors or friendly observers. The role of advisors shall be limited to consultation with the specific parties they are advising; and they may not address the Board or question witnesses. A violation of this limitation may result in an advisor being removed from the hearing at the discretion of the presiding officer. The advisor may be, but may not act in the role of an attorney. Parties must notify the Office of Student Rights & Responsibilities if they will have an advisor during the hearing or conference, and if their advisor is an attorney, at least three business days prior to the hearing or conference.

### Student Groups and Organizations

28. Student groups and organizations may be charged with violations of this “Code”.

29. A student group or organization may be held collectively responsible and its officers may be held individually responsible when violations of the “Code” by those associated with the group or organization have occurred.

A position of leadership in a student group, organization, or athletic team entails responsibility. Student officers cannot permit, condone, or acquiesce in any violation of this “Code” by the group or organization.

This section of the “Code” is also designed to hold a group, including athletic teams, student organizations, and their officers, accountable for any act of hazing. For example, requiring, expecting, or encouraging members to consume any drugs, including alcohol, as a condition or prelude to membership or further participation in the organization would constitute a violation of Article 11, sections b, e, h, and t. This is because such an activity may be physically abusive, constitutes an interference with normal University activities, and violates drug or alcohol regulations. The express or implied “consent” of the victim or participant is not a defense. Participants in these activities will be charged; the University community is considered to be the victim.

30. The officers or leaders or any identifiable spokesperson for a student group or organization may be directed by the Director of the Office of Student Rights & Responsibilities or designee to take appropriate action designed to prevent or end violations of this “Code” by the group or organization. Failure to make reasonable efforts to comply with the Director of the Office of Student Rights & Responsibilities or designee’s directive shall be considered a violation of this “Code” by the officers, leaders, or spokesperson for the group or organization and by the group or organization itself.

31. Sanctions for group or organization misconduct may include revocation or denial of registration, as well as other appropriate sanctions.

### Appeals

32. Parties have a right to appeal the outcome of a disciplinary hearing or conference but not the sanction. Appeals must be based on new information that is relevant to the case, that was not previously presented at the hearing or conference, and that significantly alters the finding of fact. Appeals must be submitted in writing to the Office of Student Rights & Responsibilities within five business days after receipt of the outcome letter. Failure to appeal within the allotted time will render the original decision final and conclusive.

33. A timely appeal will be reviewed by the Executive Director of University Initiatives or designee to determine its viability based on the criteria in Article 32. Such review by the Executive Director of University Initiatives or designee will generally be completed within 14 days of the date the appeal is filed, although in certain cases additional time may be required depending on the complexity of the case and other factors. If an appeal is found to be viable, the appeal will be forwarded to the Chair of the Committee on the Judicial System, who shall select a Panel of three persons from the Committee to review and decide the appeal (the “Panel”). One member from each constituency – students, faculty and administrators – shall be appointed, but otherwise the selection of Panel members shall be within the discretion of the Chair. The decision to grant or deny the appeal will be based on information supplied in the written appeal and, when necessary, the record of the original proceedings. As a general practice, the Panel will attempt to reach its decision within 45 days, although it may take additional time to do so in individual cases depending on the circumstances involved, the complexity of the facts, the availability of witnesses, and other factors. The decision of the Panel, or the outcome and sanctions (if any) resulting from any new hearing or conference ordered by the Panel in connection with the appeal, shall be final and conclusive and no further appeals will be permitted.

34. The Panel of the Committee on the Judicial System may

- a. Affirm the finding of the original board or conference;
- b. Remand the case to the original board or conference officer for a new hearing; or
- c. Request that a new board or conference officer hear the case.

35. The imposition of sanctions will be deferred during the pendency of appellate proceedings unless, in the judgment of the Dean of Student Affairs or designee, the continued presence of the student on campus poses a substantial threat to others, to himself or herself, or to the stability and continuance of normal University functions.

## **Transcript Notations**

**36.** An encumbrance may be placed on a student's University records by the Director of the Office of Student Rights & Responsibilities or designee while disciplinary proceedings are pending or sanctions are incomplete.

**37.** Notation of disciplinary action will be made on the transcript whenever a student is expelled or suspended. Students may petition for removal of the notation of suspension when the suspension period has expired or after three years, whichever comes first. Such petitions may be granted at the discretion of the Director of the Office of Student Rights & Responsibilities or designee. Factors to be considered in reviewing petitions for notation removal include the current demeanor of the student, the student's conduct subsequent to the violation, and the nature of the violation, including the damage, injury, or harm.

## **Disciplinary Files and Records**

**38.** Case referrals may result in the development of a disciplinary file in the name of the student; the file shall be voided if the charge is not substantiated. Voided files will be so marked, shall not be kept with active disciplinary records, and shall not leave any student with a disciplinary record.

**39.** The files of students found in violation of any prohibited conduct will be retained as a disciplinary record until their graduation. This provision shall not, however, prohibit any program, department, college, or school of the University from retaining records of violations and reporting violations as required by their professional standards; the University may retain, for appropriate administrative purposes, records of all proceedings regarding violations of the "Code of Student Conduct". Disciplinary records may be reported to third parties in accordance with University regulations and law.

**40.** Disciplinary records may be removed from the student disciplinary files of the Division of Student Affairs by the Director of the Office of Student Rights & Responsibilities or designee, upon written request of the student, no sooner than one year after the finding of fact for the case. In deciding whether to grant the request, the Director of the Office of Student Rights & Responsibilities or designee will consider such factors as the current demeanor of the student, the student's conduct subsequent to the violation, and the nature of the violation, including the severity of any other student's damage, injury, or harm.

**41.** Students assigned to complete any sanction as a result of violating any section of this "Code" will have their records encumbered by the Office of Student Rights & Responsibilities. The encumbrance will be removed upon completion of all sanctions required by the University.

## **Conflicts**

**42.** In event of conflict between the terms of this "Code of Student Conduct" and any provision of the Guide to Student Rights and Responsibilities, the terms of this "Code" shall govern.